

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL HORACEK,

No. 07-11885

Plaintiff,

District Judge Arthur J. Tarnow

v.

Magistrate Judge R. Steven Whalen

DAVID J. BURNETT,

Defendant.

_____ /

**ORDER CONDITIONALLY GRANTING MOTION
TO APPOINT COUNSEL**

Plaintiff, a *pro se* civil rights litigant,¹ has filed a motion to appoint counsel [Docket #65].

Unlike criminal cases, there is no constitutional or statutory right to the appointment of counsel in civil cases. Rather, the Court requests members of the bar to assist in appropriate cases. In *Lavado v. Keohane*, 992 F.2d 601, 605-606 (6th Cir. 1993), the Sixth Circuit noted that “[a]ppointment of counsel in a civil case is not a constitutional right. It is a privilege that is justified only by exceptional circumstances.” (Internal quotations and citations omitted).

This case survived Defendant’s motion for summary judgment, and involves legal and factual issues under the First Amendment Free Exercise Clause and the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, *et.seq.* It would benefit both parties, as well as the Court, for Plaintiff to be represented, and the Court will endeavor to enlist *pro bono* counsel.

¹ At the time of filing his complaint, Plaintiff was a prison inmate in the custody of the Michigan Department of Corrections. He has since been paroled.

Accordingly, Plaintiff's motion to appoint counsel is CONDITIONALLY GRANTED, conditioned on the Court's success in enlisting *pro bono* counsel.

SO ORDERED.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: October 22, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on October 22, 2008.

S/G. Wilson
Judicial Assistant